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Attorneys for Kristal L. Smith

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

KRISTAL L. SMITH, Individually, and in her
capacity as Trustee of the Smith Trust dated
May 31, 2002,

Plaintiff,

v.

UNITED STATES OF AMERICA; and
DAVID L. LOPEZ-QUINTANA,

Defendants.

DAVID L. LOPEZ-QUINTANA,

Counterclaimant,

v.

KRISTAL L. SMITH, Individually, and in her
capacity as Trustee of the Smith Trust dated
May 31, 2002,

Counterdefendant.

CASE NO. C-06-6103 WHA (EMC)

**PARTIES' STIPULATION REGARDING
DISTRIBUTION OF EXCESS PROCEEDS
AND TO DISMISS ACTION WITH
PREJUDICE AND [Proposed] ORDER**

IT IE HEREBY STIPULATED AND AGREED, by and between the Plaintiff and
Counterdefendant, Kristal L. Smith, Individually, and in her capacity as Trustee of the Smith Trust
dated May 31, 2002, ("Ms. Smith"), the Defendant, the United States of America, for itself and on
behalf of the Internal Revenue Service (the "United States"), and the Defendant and

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Stip. re: Distribution of Excess Proceeds and
Dismissal and [Proposed] Order

Case No. C-06-6103 WHA (EMC)

1 Counterclaimant, David L. Lopez-Quintana (“Mr. Quintana”), by and through the signatures of
2 their respective counsel as set forth below, as follows:

3 1. This was an action pursuant to 26 U.S.C. § 7426(a)(3) to determine the proper
4 distribution of excess net sales proceeds totaling \$380,388.91 (“Excess Proceeds”), arising out of
5 the sale on May 30, 2006, of a parcel of real property located at 1620 Germano Way, Pleasanton,
6 California (the “Property”). The parties to this action claimed competing interests in the Excess
7 Proceeds.
8

9 2. On February 23, 2007, pursuant to the stipulation of the parties, the amount of
10 \$383,698.27, comprised of the Excess Proceeds of \$380,388.91, and accrued interest thereon of
11 \$3,309.36, (the “Deposit”), was deposited by the parties with the Clerk of the Court for the
12 Northern District of California (the “Clerk”).
13

14 3. Pursuant to the stipulation of the parties and 28 U.S.C. § 2041, the Deposit of
15 \$383,698.27, was to be thereafter deposited by the Clerk with the Treasurer of the United States,
16 or a designated depository, in an account maintained in the name and to the credit of the United
17 States District Court for the Northern District of California, San Francisco Division, and to be
18 maintained in said account pending a resolution of the parties’ competing interests therein.
19

20 4. The parties have resolved their competing claims in and to the Excess Proceeds and
21 the accrued interest thereon.

22 5. Pursuant to the Agreement of the parties, the Clerk shall distribute from the Deposit
23 to Ms. Smith the amount of \$110,309.36 (comprised of principal in the amount of \$107,000, plus
24 interest totaling \$3,309.36 accrued on the Excess Proceeds prior to the date of deposit with the
25 Clerk on or about February 23, 2007), plus any and all interest accrued on the total Deposit of
26 \$383,698.27, from and after the date of deposit with the Clerk on or about February 23, 2007.
27

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6. Pursuant to the Agreement of the parties, the Clerk shall distribute from the Deposit to the United States the amount of \$273,388.91, which amount will be applied by the United States to the outstanding unpaid Federal tax liabilities of Mr. Quintana.

7. Upon completion of the distributions provided for in paragraphs 5 and 6, above, this action shall be dismissed with prejudice, with each side to bear its own fees and costs.

8. Any and all counterclaims in this matter shall be dismissed with prejudice upon the transfer by Ms. Smith to Mr. Quintana of the items listed in Exhibit A attached hereto, with each side to bear its own fees and costs.

IT IS SO STIPULATED AND AGREED.

SIDEMAN & BANCROFT LLP

DATED: November 19, 2007 By: /s/ Emily J. Kingston
EMILY J. KINGSTON
Attorneys for Krystal L. Smith

SCOTT N. SCHOOLS
UNITED STATES ATTORNEY

DATED: November 19, 2007 By: /s/ Cynthia Stier
CYNTHIA STIER
Assistant U.S. Attorney, Tax Division
Attorneys for the United States of America

SUGARMAN & CANNON

DATED: November 15, 2007 By: /s/ Christopher Cannon
CHRISTOPHER CANNON
Attorneys for David L. Lopez-Quintana

ORDER

PURSUANT TO THE AGREEMENT AND STIPULATION OF THE PARTIES, as set forth above,

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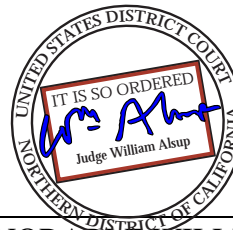
IT IS HEREBY ORDERED,

a. That the Clerk shall cause to be distributed from the Deposit to Ms. Smith the amount of \$110,309.36 (comprised of principal in the amount of \$107,000, plus interest totaling \$3,309.36 accrued on the Excess Proceeds prior to the date of deposit with the Clerk on or about February 23, 2007), plus any and all interest accrued on the total Deposit of \$383,698.27, from and after the date of deposit with the Clerk on or about February 23, 2007.

b. That the Clerk shall cause to be distributed from the Deposit to the United States the amount of \$273,388.91, which amount will be applied by the United States to the outstanding unpaid Federal tax liabilities of Mr. Quintana.

c. That upon completion of the distributions by the Clerk as set forth above, this action shall be dismissed with prejudice, with each side to bear its own fees and costs.

d. That any and all counterclaims in this action shall be dismissed with prejudice upon the transfer by Ms. Smith to Mr. Quintana of the items listed in Exhibit A attached hereto, with each side to bear its own fees and costs.

IT IS SO ORDERED.Date: November 20, 2007

THE HONORABLE WILLIAM H. ALSUP
 United States District Judge